



## *Report to the Auburn City Council*

Action Item  
Agenda Item No. **8**

*[Signature]*  
City Manager's Approval

**To:** Honorable Mayor and Members of the City Council  
**From:** Robert Richardson, City Manager  
Andy Heath, Administrative Services Director  
**Date:** January 23, 2012  
**Subject:** Consideration of Becoming Successor Agency to the Auburn Urban Development Authority's Housing Assets and Functions

### **The Issue**

Shall the City Council adopt a resolution electing to serve as the Successor Agency to the Auburn Urban Development Authority's housing assets and functions, pursuant to Part 1.85 of Division 24 of the California Health and Safety Code and notify the Placer County Auditor-Controller of such decision by January 31, 2012?

### **Action Requested**

It is recommended that the City Council, by **RESOLUTION**, elect to become the Successor Agency to the Auburn Urban Development Authority's Housing Assets and Functions previously performed by AUDA, and notify the Placer County Auditor-Controller of this decision by January 31, 2012.

### **Background**

The Auburn Urban Development Authority ("AUDA") was created by the City Council for the purposes of implementing redevelopment activities in the City. The City Council adopted the Redevelopment Plan for the Auburn Redevelopment Project in accordance with the Community Redevelopment Law (Health and Safety Code § 33000 *et seq.*) ("CRL"). The Auburn Redevelopment Project Area was found to have a significant number of physical and economic blighting conditions that necessitated adoption of the Redevelopment Plan. The Redevelopment Plan authorizes AUDA to receive tax increment revenue to pay for programs and projects that address these conditions consistent with the CRL.

In January, 2011, the Governor announced his intent to eliminate redevelopment agencies as a way to help balance the State budget. The Legislature then enacted and the Governor signed Assembly Bill 1X 26 ("AB 1X 26") and Assembly Bill 1X 27 ("AB 1X 27"). These bills took effect on June 29, 2011.

AB 1X 26 immediately suspended all new redevelopment activities and incurrence of indebtedness, and dissolves redevelopment agencies effective October 1, 2011. AB 1X 27 allowed a city or county that had a redevelopment agency to avoid dissolution by adopting an ordinance agreeing to make specified payments to reduce the State budget deficit.

A Petition for Writ of Mandate was filed in the Supreme Court of the State of California on July 18, 2011 (*California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861), challenging the constitutionality of AB 26 and AB 27 on behalf of cities, counties and redevelopment agencies and requesting a stay of enforcement. On August 11, 2011, and August 17, 2011, the Supreme Court stayed portions of AB 1X 26, and stayed AB 1X 27 in its entirety during the pendency of the matter.

On December 29, 2011, the Supreme Court issued its final decision in the aforesaid litigation, upholding AB 1X 26, invalidating AB 1X 27, and extending all statutory deadlines under AB 1X 26, essentially dissolving all redevelopment agencies throughout the State effective February 1, 2012.

AB 1X 26 provides, in part, that the City, as the entity that created AUDA, may elect to retain the housing assets and obligations of the former redevelopment agency. If the City elects to retain the responsibility for performing housing functions previously performed by AUDA, all rights, powers, duties, and obligations of the former redevelopment agency shall be transferred to the City. Further, the City may retain funds in AUDA's Low and Moderate-Income Housing Fund, that are encumbered, but any unencumbered funds in the Housing Fund would not be transferred. Unless the costs associated with these housing obligations are set forth in an approved Recognized Obligation Payment Schedule, the City will be assuming all of these costs, potentially without any additional funding source, and the costs would be the sole responsibility of the community general fund.

The City must affirmatively elect to retain the housing functions and assets of the former redevelopment agency. If the City does not elect to retain those housing responsibilities, AB 1X 26 provides that all rights, powers, assets, liabilities, duties and obligations associated with the housing activities of the former redevelopment agency will be transferred to the local housing authority, or if there is no local housing authority, to the California Department of Housing and Community Development.

### Analysis

The fundamental question to be addressed within the context of this analysis is "Should the City of Auburn chose to be the successor agency to the housing functions of the dissolved Auburn Urban Development Authority?"

Use of Prior Tax Increment Transferred Allocated to Low and Moderate Income Housing

Each year, the AUDA was required to allocate 20% of gross tax increment for each fiscal year to the Low and Moderate Income Housing (LMIH) Fund. These funds could only be used for applicable housing purposes. At the present time, there is approximately \$906,000 in unencumbered fund balance in the LMIH Fund.

Redevelopment agencies are effectively dissolved – only debts, including those associated with the Low and Moderate Income Housing functions of the RDAs, existing as of June 29, 2011 will be paid from current and future tax increment previously used to fund projects. Consistent with AB 1x 26, the unencumbered balance in the LMIH Funds must be transferred to the auditor-controller via the successor agency.

Low and Moderate Income Housing Fund Assets

The Low and Moderate Income Housing Fund currently maintains one asset – a nine-acre parcel of land located near the City's Corporation Yard on Blocker Drive. To the extent the City elects to be the Successor Agency to the housing functions, this parcel would need to be developed with low and moderate income housing or sold subject to the restrictions on its use set forth in the California Redevelopment Law.

Advantages and Disadvantages/Risks to Becoming the Housing Successor AgencyAdvantages:

- Community is able to maintain some level of local control over existing housing assets (but not unencumbered funds in LMIH Fund).
- Community no longer subject to replacement and relocation requirements related to Low and Moderate Income Housing (specific to City of Auburn as no projects are currently underway requiring future obligations).
- Community may be able to benefit from proposed legislation impacting the housing functions of the former redevelopment agencies (i.e. if SB 654 is enacted, may retain control of unencumbered funds and / or be able to participate in new programs).

Disadvantages/Risks:

- Community may continue to be subject to existing low and moderate housing income monitoring requirements (Palm Terrace).
- Administrative costs will not be reimbursed (unless new legislation allows) and must be assumed by community's General Fund (anticipated contractual and staff cost for annual monitoring is \$3,000.00).

Conclusion

Since the City may only take advantage of any future legislation regarding the housing aspects of former RDA if it elects to be the Housing Successor Agency; and further, given

the uncertainty of how any future legislation regarding former RDAs might impact the City of Auburn, staff recommends the City elect being the Housing Successor Agency.

**Alternatives Available to the Board; Implications of Alternatives**

1. By **RESOLUTION**, elect to become the Successor Agency to the Auburn Urban Development Authority's Housing Assets and Functions previously performed by AUDA, and notify the Placer County Auditor-Controller of this decision by January 31, 2012.
2. Do not adopt a resolution and provide direction to staff. Absent passing a resolution by January 31, 2012 to being the Housing Successor Agency, the local housing authority or the State of California Department of Housing and Community Development will become the successor agency.

**Fiscal Impact**

The General Fund may incur additional costs of up to \$3,000.00 in the event administrative costs associated with housing monitoring activities are not reimbursed.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN,  
CALIFORNIA, ELECTING TO RETAIN THE HOUSING ASSETS AND  
FUNCTIONS PREVIOUSLY PERFORMED BY THE AUBURN URBAN  
DEVELOPMENT AUTHORITY PURSUANT TO PART 1.85 OF  
DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE**

**WHEREAS**, the City Council of the City of Auburn ("City") approved and adopted the Redevelopment Plan for the Auburn Redevelopment Project ("Redevelopment Plan") covering certain properties within the City (the "Project Area"); and

**WHEREAS**, the Auburn Urban Development Authority ("AUDA") has been engaged in activities to execute and implement the Redevelopment Plan pursuant to the provisions of the California Community Redevelopment Law (Health and Safety Code § 33000, et seq.) ("CRL"); and

**WHEREAS**, since adoption of the Redevelopment Plan, AUDA has undertaken redevelopment projects in the Project Area to eliminate blight, to improve public facilities and infrastructure, to renovate and construct affordable housing, and to enter into partnerships with private industries to create jobs and expand the local economy; and

**WHEREAS**, as part of the 2011-12 State budget bill, the California Legislature enacted, and the Governor signed, companion bills AB 1X 26 and AB 1X 27, requiring that each redevelopment agency be dissolved unless the community that created it enacted an ordinance committing it to make certain payments; and

**WHEREAS**, a Petition for Writ of Mandate was filed in the Supreme Court of the State of California on July 18, 2011 (*California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861), challenging the constitutionality of AB 1X 26 and AB 1X 27 on behalf of cities, counties and redevelopment agencies; and

**WHEREAS**, on December 29, 2011, the Supreme Court issued its final decision in the aforesaid litigation, upholding AB 1X 26, invalidating AB 1X 27 and extending all statutory deadlines under AB 1X 26, essentially dissolving all redevelopment agencies throughout the State effective February 1, 2012; and

**WHEREAS**, Health and Safety Code Section 34176 provides that the city that authorized the creation of the redevelopment agency may elect to retain the housing assets and functions previously performed by the redevelopment agency; and

**WHEREAS**, all other legal prerequisites to the adoption of this Resolution have occurred.

**THE CITY COUNCIL OF THE CITY OF AUBURN, CALIFORNIA, DOES  
HEREBY RESOLVE AS FOLLOWS:**

**Section 1. Recitals.** The Recitals set forth above are true and correct and incorporated herein by reference.

**Section 2. Election to Retain Housing Assets and Functions.** In accordance with Health and Safety Code Section 34176, and based on the Recitals set forth above, because the City Council authorized the creation of the Auburn Urban Development Authority, the City Council hereby elects to retain the housing assets and functions previously performed by the Auburn Urban Development Authority. Upon dissolution of AUDA pursuant to Part 1.85 of Division 24 of the California Health and Safety Code, and except as provided under the CRL, all rights, powers, duties and obligations, excluding any unencumbered amounts on deposit in AUDA's Low and Moderate Income Housing Fund shall be transferred to the City of Auburn.

**Section 3. Implementation.** The City Council hereby authorizes and directs the City Manager to take any action and execute any documents necessary to carry out the purposes of this Resolution, including but not limited to notifying the Placer County Auditor-Controller, the Controller of the State of California, and the California Department of Finance of the adoption of this Resolution and the transfer of all housing assets and functions of the former Auburn Urban Development Authority to the City of Auburn, all in accordance with AB 1X 26.

**Section 4. Severability.** If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

**Section 5. Certification.** The City Clerk shall certify to the adoption of this Resolution.

**Section 6. Effective Date.** This Resolution shall become effective upon its adoption.

**PASSED AND ADOPTED** at a regular meeting of the City Council on the \_\_\_\_ day of January, 2012, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

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Keith Nesbitt, Mayor

ATTEST:

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Joseph G.R. Labrie

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